

REMARKS

Claims 3-15 are now pending in this application. Claims 1-2 are withdrawn. Claims 3-4 are rejected. New claims 5-15 are added. Claim 3 is amended herein to make it independent. Claim 4 is amended herein to place it in better form.

Claims 3-4 have been rejected under 35 U.S.C. § 102(b) as anticipated by EP0504881 (Tachibana et al.).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See Verdegaal Brothers Inc. v. Union Oil Company of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claim 3 recites a detachable ultrasonic emitter. Tachibana et al. fails to disclose any detachable ultrasonic emitter. Claim 3 is therefore patentable at least for this reason.

Claim 4 is patentable at least for the reason that it depends from a patentable base claim. *See In re Royka and Martin*, 180 USPQ 580, 583 (CCPA 1974). Claim 4 recites a manual control unit for adjusting the frequency and intensity of the ultrasonic wave. The Office Action cites to page 3, lines 30-31 of Tachibana et al. for the proposition that Tachibana et al discloses such manual control unit. However, the disclosure that an ultrasonic signal of 30 KHz to several MHz can be applied does not mean that such manual control unit is disclosed. It is possible, for example, for the frequency to be generated automatically without any manual control unit to control the frequency.

Accordingly, claim 4 is further patentable for this reason. Also, claim 4 recites that the manual control unit is for adjusting the frequency and intensity of the ultrasonic wave. There is no disclosure in Tachibana et al. of adjusting the intensity of the ultrasonic wave. Accordingly, for the above-mentioned reasons, claims 3 and 4 are patentable over Tachibana et al. and notice to that effect is respectfully requested.

Claims 3-4 have been rejected under 35 U.S.C. § 102(b) as anticipated by Therasound 3.4 Specifications, 1998 (Rich Mar) as evidenced by Human Gene Therapy, April 2003 14:591-597 (Nakashima et al.).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See Verdegaal Brothers Inc. v. Union Oil Company of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claim 3 recites an agent delivery apparatus comprising a detachable ultrasonic emitter and a medical-material ejecting device. Rich Mar fails to disclose any detachable ultrasonic emitter. Rich Mar also fails to disclose a medical-material ejecting device. The Therasound 3.4 is merely an ultrasound machine and does not include any medical-material ejecting device. Accordingly, claim 3 is patentable over Rich Mar and notice to that effect is respectfully requested. Claim 4 is patentable at least for the reason that it depends from a patentable base claim. *See In re Royka and Martin*, 180 USPQ 580, 583 (CCPA 1974).

Applicants also wish to note that Nakashima et al. appears to have been redacted and that, as a result, Applicants cannot determine whether the Therasound 3.4 is actually disclosed on page 592, column 2 of Nakashima et al.

Claims 3-4 have been rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,593,304 (Ram).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See Verdegaal Brothers Inc. v. Union Oil Company of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claim 3 recites an apparatus comprising an ultrasonic transducer. Ram fails to disclose an ultrasonic transducer. The reference in Ram to an electrically-oscillated handpiece is not referring to any kind of ultrasonic transducer. Accordingly, claim 3 is patentable over Ram and notice to that effect is respectfully requested. Claim 4 is patentable at least for the reason that it depends from a patentable base claim. *See In re Royka and Martin*, 180 USPQ 580, 583 (CCPA 1974).

Applicants also note that the direction of ultrasound emission is important when applying drugs in combination with ultrasound. The direction of the ultrasound can be controlled by changing the ultrasound frequency and this can be done with a single element at the tip. Thus, the claimed invention can carefully and accurately control ultrasound direction to obtain maximum results. The endoscope helps in this regard by maximizing efficient delivery of drugs and controlling the direction of the

ultrasound emission to the teeth. None of the cited documents disclose the feature of the changing direction based upon different frequencies.

New claims 5-15 have been added and are patentable at least for the reason that they depend from a patentable base claim.

Claim 3 has been amended to be independent. Claim 4 has been amended to place it in better form.

New claims 5-15 have been added, support being found in the specification from page 5, fifth full paragraph, to page 6, third full paragraph, as well as in Figure 1.

Applicants respectfully request that the Examiner acknowledge the receipt of copies of the certified priority documents from the International Bureau.

Applicants respectfully request a one month extension of time for responding to the Office Action. **The fee of \$60.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.**

If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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